

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ACCESS 4 ALL, INC., a Florida Not-For-Profit	:	
Corporation, and NELSON M. STERN,	:	
Individually,	:	
	:	
Plaintiffs,	:	Case No. 1:07-cv-2923
	:	
v.	:	Judge Leonard B. Sand
	:	Magistrate Judge Frank Maas
ULSTER HEIGHTS PROPERTIES, INC., a	:	
New York Corporation,	:	
	:	
Defendant.	:	

**PLAINTIFFS' MOTION FOR DEFAULT AGAINST DEFENDANT ULSTER HEIGHTS
PROPERTIES, INC.**

Plaintiffs, by and through undersigned counsel, and pursuant to Fed. R. Civ. Pro. 55, hereby move for Default against Defendant, ULSTER HEIGHTS PROPERTIES, INC. and state as follows:

1. Plaintiffs, disabled persons, commenced the instant action seeking injunctive relief pursuant to the Americans With Disabilities Act, 42 U.S.C. Section 12181, et seq. for the removal of discriminatory barriers to access present at the place of public accommodation known as Prel Plaza, located at 60 Dutch Hill Road in Orangeburg, NY.

2. On May 14, 2007, Plaintiffs filed an Amended Complaint, naming Ulster Heights Properties, Inc. as the responsible owner of the subject property.

3. In accordance with New York Statutes, service was effected upon Ulster Heights Properties, Inc. by serving the New York Secretary of State on June 29, 2007. The Return of Summons on this Defendant was filed as DE 10. Although the Docket Text is entered as "Summons Returned Unexecuted", service upon this Defendant was in fact proper, as indicated on the face of

the Return.

4. Defendant Ulster Heights Properties Inc. is an active New York corporation registered with the Secretary of State. A copy of the Entity Information downloaded from the New York Secretary of State website is attached hereto as Exhibit A. As set forth thereon, Ulster Heights listed Andrew Stoller as its registered agent for receipt of service of process. An investigation by undersigned counsel has revealed that Mr. Stoller is no longer obtainable at the address listed. In fact, undersigned counsel researched Mr. Stoller's whereabouts and located him in Florida. Undersigned counsel contacted Mr. Stoller by telephone and was advised by Mr. Stoller that he is not the proper registered agent for Ulster Heights.

6. On further investigation, Plaintiffs' counsel learned that the principal of Ulster Heights is Dave Glauber. Letters were sent to Mr. Glauber at his two known addresses and to the management office of the subject property. A copy of said correspondence is attached hereto as Exhibit B.

7. Despite proper service and the efforts of undersigned counsel to reach the Defendant, Ulster Heights has avoided contact and failed to file any pleading in response to the Amended Complaint.

WHEREFORE, Plaintiffs respectfully request that this Court enter an Order of Default against Defendant Ulster Heights Properties, Inc..

Respectfully Submitted,

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and

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By: /s/ Thomas B. Bacon
Thomas B. Bacon, Esquire

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	:	
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_____ /

ORDER

Upon consideration of the Plaintiffs' Motion for Default against Defendant Ulster Heights Properties, Inc., and it appearing there is good cause for the same, it is hereby ORDERED that said motion is GRANTED.

Done and Ordered in Chambers, Manhattan, New York this _____ day of _____, 2007.

United States District Judge